

Serial No. 10/613,385
Docket No. 12207.0900

REMARKS

I. Status of Claims

Applicant hereby replies to the Office Action dated November 1, 2005 within the shortened statutory period for reply. Applicant amends claims 1, 6, 8, 10, 26, 39, and 41 and adds claims 45-46. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been added. Claims 1-46 remain pending in the application. In view of the foregoing amendments and the following remarks, reconsideration and allowance of claims 1-46 is respectfully requested.

II. Claims Rejected Under 35 U.S.C. §102(e)

The Examiner has rejected independent claims 1, 27, 41 and 44 and dependent claims 2-6, 11-15, 29-37 and 39-43 under 35 U.S.C. §102(e) as being anticipated by Graham et al., U.S. Patent No. 6,810,925 ("Graham"). Applicant respectfully traverses this rejection.

Graham discloses a system with a protective enclosure 18 that surrounds and substantially encloses the interior components; however, Graham does not disclose that the protective enclosure 18 is substantially sealed. Graham discloses that its protective enclosure 18 has an external air inlet 24 at the base of the station 2, and a ventilation air outlet 28 at the top of station 2. Outside air is sucked in through the external air inlet 24 and an air flow path inside the station 2 extends from the air inlet 24 to the ventilation air outlet 28 to discharge leaked hydrogen away from the station. (See Col. 4, lns 61-67). Thus, if the protective enclosure 18 of Graham were substantially sealed, the hydrogen removal functionality of would be destroyed. Thus, Graham teaches away from a hydrogen fueling system having a substantially sealed enclosure. As such, Graham does not teach or suggest at least a "substantially sealed secondary containment" as similarly recited in amended claims 1, 27, 41, and 44. Therefore, in view of the remarks above, Applicant respectfully requests that the Section 102(e) rejection of amended claim 1 be withdrawn.

Claims 2-15, 28-40, 42-43 and 45-46 variously depend from amended independent claims 1, 27, 41, and 44, and contain all of the elements thereof. Dependent claims 2-15, 28-40, 42-43 and 45-46 are differentiated from the cited reference for the same reasons as set forth above, in addition to their own respective features.

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Additionally, the Examiner contends that claim 30 which recites “a fire suppression system configured to introduce a substantially inert gas into said enclosure” is anticipated by Graham at Col. 8, lns 43-55. However, Graham does not disclose introducing a **substantially inert** gas, but merely discloses introduction of air flow. (Col 8, ln 50). “Inert” is defined as “deficient in active properties; *especially* : lacking a usual or anticipated chemical or biological action.” (See <http://www.m-w.com/dictionary/inert>). Air comprises approximately 20.9% oxygen and would react with heat to create an explosion, and therefore is not substantially inert. Thus, Applicant respectfully requests that the Section 102(e) rejection of claim 30 be withdrawn.

III. Claims Rejected Under 35 U.S.C. §103(a)

The Examiner rejected claims 7-10, 16-26, 28 and 38 under 35 U.S.C. §103(a) as being unpatentable over Graham. Applicant respectfully traverses this rejection.

With respect to independent claims 16-26 and 28, the Examiner states that Graham discloses the invention substantially as claimed in the present application including “walls” but does not disclose the walls being cylindrical or leaning away from the equipment. The Examiner contends that “it would have been an obvious matter of design choice to make the walls cylindrical or leaning, since Applicant has not disclosed that a cylindrical or leaning wall rather than a rectangular wall solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a rectangular wall.”

Applicant directs the Examiner to, for example, paragraphs [0028] and [0117] of the present application which discloses that the walls may be configured to lean away from the equipment such as is recited in claim 16 so as to direct the force of an explosion upwards. For example, paragraph [0028] states:

These structures may have an open top to allow gasses and pressure to escape safely, and the way the walls lean away in some embodiments may facilitate the open top being large relative to, for example, the floor area where the equipment may be located. As a result, in the event of a hydrogen leak that forms an explosive mixture within the structure, the structure may be able to withstand a resulting explosion or detonation and direct the heat and forces upwards, partially or fully protecting human life and property outside the structure. [emphasis added].

Moreover, paragraph [0117] states, “In some embodiments ... some or all of the walls, for example, 255 and 256, may tilt or lean away from the hydrogen handling equipment This

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configuration may reduce the loading on walls 255 through 258 in the event of an explosion within structure 250.”

Thus, Graham does not teach or suggest at least “wall being configured to lean away from said equipment so that said open top has a larger area than the area of said floor” as recited in claim 16, and the rectangular wall that is disclosed in Graham will not perform equally well. Thus, Applicant respectfully requests that the Section 103(a) rejection claim 16 be withdrawn.

Claims 17-26 depend from claim 16, and contain all of the elements thereof. Dependent claims 17-26 are differentiated from the cited reference for the same reasons as set forth above, in addition to their own respective features.

Additionally, claims 7-9 and 38 are non-obvious. The Examiner, citing *In re Japiske*, 86 U.S.P.Q. 70 (CCPA 1950), contends that it “would have been obvious to one of ordinary skill in the art to locate the supply pipe at least partially inside the vent pipe, locate all penetrations at the top of the pressure vessel, and locate the bottom of the pressure vessel below grade, since it has been held that rearranging parts of an invention involves only routine skill in the art.”

However, in *Japiske*, the position of the starting switch was held unpatentable because it **would not have modified the operation of the device. *Id.*** In the present invention, the position of the supply pipe “being connected to said pressure vessel substantially near said top end” and “said supply pipe being at least partially located inside said vent type” as recited in claim 7 provides a safety function in the case of explosion, and thus modifies the operation of the present invention.

The Applicant directs the Examiner to paragraph [0058] which states:

In some embodiments, all penetrations through pressure vessel 110 may be in the top half, third, or quarter of pressure vessel 110. In some embodiments, some or all penetrations into pressure vessel 110 may be at, near, or substantially near top end 111. **Thus, in the event hydrogen leaks and ignites, the distance from the fire to any personnel or vulnerable equipment may be great enough to prevent harm thereto. [emphasis added].**

Additionally, paragraph [0071] states:

Supply pipe 144 and/or other piping may be located at least partially within vent pipe 140 so that any leakage from supply pipe 144 and/or the other piping may be safely vented through vent pipe 140. Supply pipe 144 may connect to pressure vessel 110 overhead or near top end 111 **so that any leakage from the connection is likely to dissipate innocuously upward. [emphasis added].**

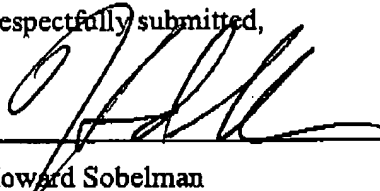
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Likewise, the "pressure vessel having all penetrations within the top quarter" as is recited in claim 8, the "said bottom portion of said pressure vessel being below grade" as recited in claim 9, and "said piping being located with said vent pipe" as recited in claim 38 each provide a safety function in the event of an explosion. Thus, Applicant respectfully requests that the Section 103(a) rejection of claims 7-9 and 38 be withdrawn.

CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as his invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. Applicant authorizes and respectfully requests that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



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